

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HARVEY H. SEIPLE, JR.,	:	CIVIL ACTION
Plaintiff,	:	
	:	NO. 97-CV-8107
v.	:	
	:	
COMMUNITY HOSPITAL OF	:	
LANCASTER and NORMAN	:	
AXELROD, DO,	:	
Defendants.	:	

M E M O R A N D U M

BUCKWALTER, J.

June 15, 1998

On April 15, 1998 this Court granted Defendants' motion for partial dismissal, and, among other claims, dismissed Plaintiff's breach of contract claim (Docket No. 7). I concluded that because Plaintiff failed to allege "that adherence to policy number H.R. 2.4.02 was to be a binding term of his at-will employment. . . ." he had not stated a claim for breach of contract. Presently, Plaintiff seeks to amend the complaint to add the allegations I found lacking. I grant this request.

In light of these amendments, Plaintiff also requests reconsideration of my ruling dismissing his breach of contract claim. Despite the clear evidentiary limitations of rules 12(b)6 and 15(a), in response to this request, Defendants submit a copy of policy number H.R. 1.1.02. Nonetheless, I choose not to exclude Defendants' submission, as consideration of H.R. 1.1.02 appears to finally resolve the issue of whether an implied

employment contract existed between the parties. Consequently, I grant Plaintiff's motion for reconsideration, but review my initial dismissal of the claim pursuant to Rule 56 governing summary judgment rather than Rule 12(b)(6). See Fed. R. Civ. P. 12(b)(6); Rose v. Bartle, 871 F.2d 331, 342 (3d Cir. 1989). Accordingly, Defendants' initial motion for dismissal (Docket No. 4) and present response, along with attached exhibits (Docket No. 10) are converted into a motion for summary judgment on Plaintiff's breach of contract claim. Id. Plaintiff may submit an opposing brief along with any pertinent materials.

An appropriate Order follows.

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LANCASTER and NORMAN	:	
AXELROD, DO,	:	
Defendants.	:	

O R D E R

AND NOW, on this 15th day of June, 1998, upon consideration of Plaintiff's motion to amend and for reconsideration (Docket No. 8) and Defendants' response (Docket No. 10), the following is hereby ordered:

- 1) Plaintiff's motion to amend is **GRANTED**;
- 2) Plaintiff's motion for reconsideration is **GRANTED**;
- 3) Defendants' submissions, Docket nos. 4 and 10, are converted into a motion for summary judgment on Plaintiff's breach of contract claim; and
- 4) Plaintiff may submit within ten days from the date of this Order a brief in opposition along with any other pertinent material.

BY THE COURT:

RONALD L. BUCKWALTER, J.